

**FILED**

APR 09 2013

Board of Vocational Nursing  
and Psychiatric Technicians

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8 **BEFORE THE**  
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2011-4068

13 **GREGORY D'JUAN BROWN**  
14 **3260 Carolyn Circle**  
15 **Oceanside, CA 92054**

**A C C U S A T I O N**

**Vocational Nurse License No. VN 219728**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
21 Technicians, Department of Consumer Affairs.

22 2. On or about March 27, 2006, the Board of Vocational Nursing and Psychiatric  
23 Technicians issued Vocational Nurse Number VN 219728 to Gregory D'Juan Brown  
24 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to  
25 the charges brought herein and will expire on May 31, 2013, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Business and Professions Code (Code) section 118, subdivision (b), provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2892.1 of the Code states, in pertinent part:

Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

....

## STATUTORY PROVISIONS

7. Section 482 of the Code provides:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

....

(b) Considering suspension of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

1           9.     Section 493 of the Code provides, in pertinent part, that the record of conviction of a  
2 crime shall be conclusive evidence of the facts that the conviction occurred, but only of that fact,  
3 and the board may inquire into the circumstances surrounding the commission of the crime in  
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
5 qualifications, functions, and duties of the licensee in question.

6           10.    Section 2878 of the Code states:

7                   The Board may suspend or revoke a license issued under this chapter [the  
8 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
following:

9                   (a) Unprofessional conduct, which includes, but is not limited to, the  
10 following:

11                   .....

12                   (f) Conviction of a crime substantially related to the qualifications, functions,  
and duties of a licensed vocational nurse, in which event the record of the conviction  
13 shall be conclusive evidence of the conviction.

14                   .....

15           11.    Section 2878.5 of the Code states, in pertinent part:

16                   In addition to other acts constituting unprofessional conduct within the meaning of this  
17 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed  
18 under this chapter to do any of the following:

19                   .....

20                   (b) Use of any controlled substance as defined in Division 10 of the Health  
21 and Safety Code, or any dangerous drug as defined in Article 8 (commencing with  
Section 4210 of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an  
22 extent or in a manner dangerous or injurious to himself or herself, any other person,  
or the public, or to the extent that such use impairs his or her ability to conduct with  
23 safety to the public the practice authorized by his or her license.

24                   (c) Be convicted of a criminal offense involving possession of any narcotic or  
25 dangerous drug, or the prescription, consumption, or self-administration of any of the  
substances described in subdivision (a) an (b) of this section, in which event the  
record of conviction is conclusive evidence thereof.

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## REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 2518.6(b)(4), states:

....

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

....

(4) Abstaining from chemical/substance abuse; and

....

(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action.

13. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving discal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

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1 14. California Code of Regulations, title 16, section 2522 states, in pertinent part:

2 When considering . . . b) the suspension or revocation of a license on the  
3 ground that a licensee has been convicted of a crime, . . . the Board in evaluating the  
4 rehabilitation of an individual and his or her present eligibility for a license, will  
5 consider the following criteria:

6 (1) Nature and severity of the act(s), offense(s), or crime(s) under  
7 consideration.

8 (2) Actual or potential harm to the public.

9 (3) Actual or potential harm to any patient.

10 (4) Overall disciplinary record.

11 (5) Overall criminal actions taken by any federal, state or local agency or  
12 court.

13 (6) Prior warnings on record or prior remediation.

14 (7) Number and variety of current violations.

15 (8) Mitigation evidence.

16 (9) In case of a criminal conviction, compliance with terms of sentence and/or  
17 court-ordered probation.

18 (10) Time passed since the act(s) or offense(s) occurred.

19 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
20 Penal Code section 1203.4.

21 (12) Cooperation with the Board and other law enforcement or regulatory  
22 agencies.

23 (13) Other rehabilitation evidence.

#### 24 **COST RECOVERY**

25 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
26 administrative law judge to direct a licensee found to have committed a violation or violations of  
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
28 enforcement of the case.

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**FIRST CAUSE FOR DISCIPLINE**

**(January 24, 2008 Criminal Conviction for Alcohol-Related Reckless Driving  
on December 9, 2007)**

16. Respondent is subject to disciplinary action under Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

17. On or about January 24, 2008, in a criminal proceeding entitled, *People of the State of California v. Gregory D. Brown*, in the Superior Court of California, County of San Diego, North County Division, in Case No. CN239699, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23103(A) (alcohol-related reckless driving) per Vehicle Code section 23103.5, a lesser included offense of Vehicle Code section 23152(b), a misdemeanor. As a result of a plea bargain, counts for violating Vehicle Code section 23152(a) (DUI) and 23152(b) (driving with a blood alcohol concentration (BAC) of 0.08 percent or more), misdemeanors, were dismissed.

18. As a result of the conviction, the Court placed Respondent on three years summary probation, ordered him to pay various fines and fees, violate no laws, enroll in and complete a First Conviction Program, and attend a MADD Impact Panel.

19. The circumstances that led to the conviction are that on December 9, 2007, at approximately 10:00 p.m., San Diego Police Department Officers heard and observed a vehicle with a loud modified exhaust system pass them. The officers saw that the exhaust system was oversized and recalled that there was a similar vehicle listed in their "Hot Sheet." Officers performed a traffic stop of the vehicle and contacted the driver (Respondent). Upon making contact with Respondent, officers noticed his eyes were bloodshot and watery, and smelled a strong odor of an alcoholic beverage coming from his person. Respondent admitted to having had "Long Island Iced Teas." Officers had Respondent perform a series of field sobriety tests, which he failed. Officers had Respondent blow into a PAS (Preliminary Alcohol Screening) device and his alcohol concentration measured 0.136 percent BAC. Respondent was arrested and transported to the Oceanside Police Department where he submitted to a blood sample which was later analyzed at 0.11 percent BAC.

**SECOND CAUSE FOR DISCIPLINE**

**(July 17, 2012 Criminal Conviction for Driving With a Blood Content of 0.08% or More  
[0.11% BAC] on March 18, 2012)**

20. Respondent is subject to disciplinary action under Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

21. On or about July 17, 2012, in a criminal proceeding entitled, *People of the State of California v. Gregory D. Brown*, in the Superior Court of California, County of San Diego, North County Division, in Case No. CN304514, Respondent was convicted on his plea of guilty of violating Vehicle Code sections 23152(b) (driving with a BAC of 0.08 percent or more [0.11 percent BAC]), a misdemeanor, with an admitted allegation of a prior conviction for DUI within 10 years. As a result of a plea bargain, a count for violating Vehicle Code section 23152(a) (DUI), a misdemeanor, was dismissed.

22. As a result of the conviction, the Court placed Respondent on five years summary probation and committed him to the custody of the sheriff for 96 hours. The Court also ordered that Respondent violate no laws, pay various fines and fees, enroll in and complete a Multiple Conviction Program, not drive without a valid driver's license or liability insurance, not drive with a measurable amount of alcohol and/or drugs in blood, and submit to any test at the request of a peace officer for the detection of alcohol or drugs in his blood.

23. The facts that led to Respondent's conviction are that on March 18, 2012, at approximately 2:00 a.m., Oceanside Police Department Officers responded to a call of a non-injury traffic accident. Upon arrival, officers made contact with the driver of the vehicle involved (Respondent), who told officers that he was coming from the Club M located in La Jolla, California, that he was tired and had closed his eyes and then realized he had crashed. While talking to Respondent, officers smelled a strong odor of an alcoholic beverage emitting from his breath and person and noticed that Respondent's speech was slow, that his face was flushed and his eyes were watery and bloodshot. Officers had Respondent perform a series of field sobriety tests which he failed. Respondent's blood alcohol content was measured at 0.11 percent and he was booked into the county jail.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)**

3 24. Respondent is subject to disciplinary action under Code section 2878(a) on the  
4 grounds of unprofessional conduct, as defined by Code section 2878.5(b) in that on or about  
5 December 9, 2007 and March 18, 2012, Respondent used alcohol to an extent or in a manner  
6 dangerous to himself and/or the public, as is more fully detailed at paragraphs 16 through 23,  
7 above, which are incorporated here by reference.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct - Conviction of a Drug or Alcohol Related Crime)**

10 25. Respondent is subject to disciplinary action under Code section 2878(a) on the  
11 grounds of unprofessional conduct, as defined by Code section 2878.5(c) in that on or about  
12 January 24, 2008 and July 17, 2012, he was convicted of alcohol-related reckless driving and of  
13 driving with a blood alcohol content of 0.08 percent or more as is more fully detailed at  
14 paragraphs 16 through 23, above, which are incorporated here by reference.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
18 issue a decision:

19 1. Revoking or suspending Vocational Nurse Number VN 219728 issued to Gregory  
20 D’Juan Brown;

21 2. Ordering Gregory D’Juan Brown to pay the Board of Vocational Nursing and  
22 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
23 pursuant to Business and Professions Code section 125.3;

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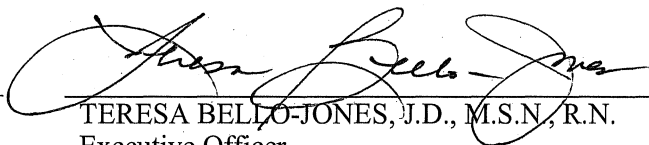


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3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

**APR 09 2013**



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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